

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105**

**File No. RH03028690
Notice File No. Z05-0701-01
Date: May 2, 2006**

**Subject: Proposed Amendments to the Prelicensing and
Continuing Education Curriculum Regulations**

**FINAL STATEMENT OF REASONS
(For Resubmission)**

**UPDATE OF INFORMATIVE DIGEST AND INITIAL STATEMENT OF
REASONS**

On December 15, 2005, the Department of Insurance ("Department") made available for public inspection certain changes to the regulation text as initially proposed. The Commissioner made changes to the proposed amendments to Sections 2186.1, 2188.2, 2188.6 and 2188.8, and added new Sections 2188.23, 2188.24, and 2188.83. The changes deleted the language in Sections 2188.2(a), (b) and (h) and 2188.8(b)(4), which incorporated applicable forms by reference. New Sections 2188.23, 2188.24, and 2188.83 were added to include the applicable forms (Forms 446-3, 446-12 and 446-13) in their entirety. These changes were made on the Commissioner's own motion to address concerns raised by the Office of Administrative Law during the review of another rulemaking file submitted by the Commissioner. Said concerns involved incorporating by reference certain forms. Changes to Section 2186.1 were made to include a definition of "interactive course" and to clarify the definition of "self-directed course". Finally, Section 2188.6(f) was changed to apply to certain interactive courses only.

On April 10, 2006, the Department made available for public inspection certain additional changes to the regulation text as initially proposed. The Commissioner made additional changes to Sections 2186.1, 2188.2, 2188.23, 2188.24, 2188.8, and 2188.83. Section 2186.1(k) was deleted and the subsequent paragraphs re-numbered. The revision date in Section 2188.2(a) was changed to 3/06. In Section 2188.2(c) all references to sixty (60) days was changed to thirty (30) days to be consistent with the thirty (30) day time period stated in Section 2188.23. The reference section of 2188.2 has been changed. Section 2188.23 now includes instructions on how to find ethics and/or annuity guidelines on the Department's website. Those guidelines are now attached as appendices to the regulations for reference. An address change was made to specify where completed Prelicensing/Continuing Education Program Course Approval Applications are to be sent. The filing fees were increased, pursuant to statutory

authority. Reference to sixty (60) days (in the last paragraph of Section 2188.23) has been changed to thirty (30) days for consistency. The reference section in Section 2188.24 has been changed. Section 2188.8(b)(4) has been changed to reflect the most recent revision date of Form 446-13 and certain numbering/lettering has been changed (i.e. (i) – (vi) to (A)- (F)) for accuracy. The first part of Section 2188.83 (following “Important”) has been changed to distinguish the timeframe for submission of Form 446-13 to the Department depending upon the course: prelicensing courses (10 days following course completion) and continuing education courses (30 days following course completion). A sentence referencing items marked with an asterisk has been moved for clarity. Finally, the reference section has been changed.

The changes were sufficiently related to the rulemaking as originally noticed such that a reasonable member of the directly affected public could have determined from the original notice that these changes could have resulted. Each substantive change is listed below, in the same order as those changes appear in the regulation.

The text of the proposed regulation has been renumbered for ease of reference. Each of these changes is nonsubstantial, in that they do not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text (Cal. Code Regs., tit. 1, section 40.)

Section 2186.1. Definitions.

It has been reasonably necessary to add new subsection (h)(2). A definition of an “interactive course” is added thereby broadening the definition of “course”. The new language is necessary to achieve the Department’s ongoing objective to improve service, accessibility and convenience to the public, including agents, brokers, and education providers using technological mediums. As a result, agents and brokers will now have one additional way of satisfying continuing education requirements. Similarly, education providers will have one more mode of offering continuing education courses.

All subsequent subsections, (h)(3) and (h)(4), are renumbered for consistency to reflect the addition of the new definition in (h)(2).

Subsection (h)(3) is amended to clarify the definition of “self-directed course”. It has been reasonably necessary to insert the words “not an interactive course” as clarification in light of the language in new subsection (h)(2). It has been reasonably necessary to delete the phrase “computer disk form” and insert “compact diskette (CD), digital versatile disc (DVD)”. This change is necessary to maintain consistency with the terminology used in new subsection (h)(2). Additionally, since these regulations were initially promulgated, the technology that could be considered to fall under the definition of “computer disk form” has expanded.

Paragraph (k) has been deleted after determining that the proposed definition of signature was not specific, was confusing and therefore unnecessary. Subsections (k)(1) and

(k)(2), as well as paragraph (l) has been renumbered to reflect the deletion of paragraph (k).

Section 2188.2. Course Approval.

Paragraph (a) is amended to change the revision date of Form 446-3 from “5/04” to “3/06”. Further, the language “incorporated by reference herein” is deleted and language stating “as set forth in Section 2188.23” is inserted. These changes are necessary and are made on the Commissioner’s own motion to address concerns raised by the Office of Administrative Law during the review of another rulemaking file submitted by the Commissioner. Said concerns involved incorporating by reference certain forms. Therefore, Form 446-3 is now included in the text of the regulations at Section 2188.23.

Paragraph (b) is amended to change the revision date of Form 446-12 from “11/01” to “11/05”. Further, the language “incorporated by reference herein” is deleted and language stating “as set forth in Section 2188.24” is inserted. These changes are necessary and are made on the Commissioner’s own motion to address concerns raised by the Office of Administrative Law during the review of another rulemaking file submitted by the Commissioner. Said concerns involved incorporating by reference certain forms. Therefore, Form 446-12 is now included in the text of the regulations at Section 2188.24.

Paragraph (c) is amended to change all references from sixty (60) days to thirty (30) days to be consistent with the thirty (30) day time period required in Section 2188.23.

Paragraph (h) is amended to change the revision date of Form 446-12 from “11/01” to “11/05”. Further, the language “incorporated by reference herein” is deleted and language stating “as set forth in Section 2188.24” is inserted. These changes are necessary and are made on the Commissioner’s own motion to address concerns raised by the Office of Administrative Law during the review of another rulemaking file submitted by the Commissioner. Said concerns involved incorporating by reference certain forms. Therefore, Form 446-12 is now included in the text of the regulations at Section 2188.24.

The “Note” has been amended to state the correct reference section.

Section 2188.23. Prelicensing/Continuing Education Program Course Approval Application Form 446-3.

It has been reasonably necessary to add Section 2188.23 to provide the text of Form 446-23 that is required by Section 2188.2(a). These changes were necessary and were made on the Commissioner’s own motion to address concerns raised by the Office of Administrative Law during the review of another rulemaking file submitted by the Commissioner. Said concerns involved incorporating by reference certain forms. Authority and reference are added in compliance with California Government Code Section 11349.1.

It has been reasonably necessary to add additional language to Section 2188.23 (under “Instructions”) for instructions on searching the Department’s public website to find ethics and annuity guidelines. The ethics and annuity guidelines are attached to these regulations as appendices for reference.

It was reasonably necessary to make an address change to instruct education providers where completed Prelicensing/Continuing Education Program Course Approval Applications are to be sent (P.O. Box 957, Sacramento, CA 95812-0957).

It was also reasonably necessary to change the amount of the filing fees to reflect the current amount. The change in filing fees was made pursuant to California Insurance Code Sections 1751.1 and 12978.

Reference to sixty (60) days (in the last paragraph of Section 2188.23) has been changed to thirty (30) days to maintain consistency with Sections 2188.2(c).

The “Note” has been amended to state the correct reference sections.

Section 2188.24. Class Presentation Schedule Form 446-12.

It has been reasonably necessary to add Section 2188.24 to provide the text of Form 446-12 that is required by Section 2188.2(b) and Section 2188.2(h). These changes were necessary and were made on the Commissioner’s own motion to address concerns raised by the Office of Administrative Law during the review of another rulemaking file submitted by the Commissioner. Said concerns involved incorporating by reference certain forms. Authority and reference are added in compliance with California Government Code Section 11349.1.

The “Note” has been amended to state the correct reference section.

Section 2188.6. Successful Completion of Continuing Education Courses.

It has been reasonably necessary to insert the word “[i]nteractive” before “courses” to maintain consistency with new Section 2186.1(h)(2) which defines “interactive course.” Section 2188.6 (f) currently begins “[c]ourses of video only or audio only programs, conducted in supervised environments involving attendance monitoring....” It follows that such video courses would then be considered contact (interactive) courses.

Section 2188.8. Certificates of Completion.

Subsection (b)(4) is amended to change the revision date of Form 446-13 from “8/01” to “11/05”. Further, the language “incorporated by reference herein” is deleted and language stating “as set forth in Section 2188.83” is inserted. These changes are necessary and are made on the Commissioner’s own motion to address concerns raised by the Office of Administrative Law during the review of another rulemaking file

submitted by the Commissioner. Said concerns involved incorporating by reference certain forms. Therefore, Form 446-13 is now included in the text of the regulations at Section 2188.84.

Section 2188.8(b)(4) has been amended to reflect the most recent revision date of Form 446-13. Sections 2188.8(b)(4)(i) – (vi) have been renumbered to Sections 2188.8(b)(4)(A)- (F) for accuracy.

Section 2188.83. Provider Roster Form 446-13.

It has been reasonably necessary to add Section 2188.83 to provide the text of Form 446-13 that is required by Section 2188.8(b)(4). These changes were necessary and were made on the Commissioner's own motion to address concerns raised by the Office of Administrative Law during the review of another rulemaking file submitted by the Commissioner. Said concerns involved incorporating by reference certain forms. Authority and reference are added in compliance with California Government Code Section 11349.1.

The beginning of Section 2188.83 (at "Important") has been changed to differentiate the time period for submission of Form 446-13 to the Department depending upon the type of course: preclicensing courses (10 days following course completion) and continuing education courses (30 days following course completion). This change was reasonably necessary to maintain consistency with Section 2188.8(b)(1) and (b)(2.)

The sentence "[i]tems marked with an asterisk (*) are not required for non-contact courses" has been added to the introductory paragraph entitled "Important". This sentence is not new; it has simply been slightly reworded and moved from another portion of the Form for clarity.

The "Note" has been amended to state the correct reference section.

UPDATE OF MATERIAL RELIED UPON

No material other than that presented in the initial statement of reasons has been relied upon by the Department of Insurance.

MANDATE UPON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department has made a determination that adoption, amendment or repeal of the regulation does not impose a mandate on local agencies or school districts. The regulation has nothing to do with local agencies or school districts; it neither requires nor prohibits action on their part.

ALTERNATIVES

The Department of Insurance has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed, or would be as effective and less burdensome to affected persons than the proposed regulation. While the Department of Insurance received only two comments from the public during the public comment period, neither of the comments presented a reasonable alternative to the regulation despite the express invitation that was extended in the Notice of Proposed Action to comment on alternatives to the regulations.

SUMMARY OF AND RESPONSE TO PUBLIC COMMENTS

During the 45-day public comment period, which ended on August 31, 2005, only one written comment was received.

On August 31, 2005, a public hearing was held. Only one individual attended the public hearing and he very briefly testified, offering general comments, regarding the proposed regulations.

No comments were received during the 15-day comment period for the Notice of Availability of Changed Text. Said 15-day comment period ended on December 30, 2005.

No comments were received during the second 15-day comment period for the Notice of Availability of Changed Text. Said 15-day comment period ended on April 25, 2006.

A verbatim recital of each written and oral comment received during the public comment period and the response to each is recited below.

Comment No. 1:

Commentator: Mr. Adam Mersereau, Sr. Vice-President, Primerica Life Insurance Company

Date of Comment: August 30, 2005

Type of Comment: Written comment submitted via hand-delivery on August 31, 2005 by Mr. Robbin McGregor, Primerica Life Insurance Company. An emailed copy of the letter followed from Mr. Mersereau.

Verbatim Comment (All mistakes in text appear in original):

Please accept this is written comment to California Proposed Article 6.5. Thank you for allowing us the opportunity to respond.

Primerica Life supports the regulations as proposed and applauds the Department's efforts toward Uniform Licensing Standards.

In keeping with those standards, we request that consideration also be given to approval of combination courses for prelicensing credit. We agree that, in this day of advanced technology and increased use of computers, now is the opportunity to broaden course formats and definitions in existing educational requirements in general.

CDI Response:

The Department considered Mr. Mersereau's written comments and did not incorporate his proposed changes into the regulations. Extending the subject regulations to include approval of combination courses for prelicensing credit is not necessary. Prelicensing courses have always been in a classroom setting and self-study classes have never been allowed. A new person entering the industry or a first-time student would be better served in a classroom setting vs. a combination course. Additionally, Mr. Mersereau raised these identical comments at the time of the pre-notice workshop for these regulations. At that time, his comments were considered and rejected.

Comment No. 2:

Commentator: Mr. Robbin McGregor, Primerica Life Insurance Company

Date of Comment: August 31, 2005

Type of Comment: Oral (Transcript of Proceedings, August 31, 2005, pages 4-5)

Verbatim Comment (All mistakes in text appear in original:

My name is Robbin McGregor. I'm with Primerica; I'm also on the DOI curriculum board. And I gave my comments in writing. Not much more to say. No, I think everything is great. And of course, I was on the board, and kind of like really know what's going on, so I'm not in a fog right now. So everything is great.

CDI Response:

The written comments that Mr. McGregor refers to are the written comments of Mr. Adam Mersereau (discussed above), which Mr. McGregor hand delivered to the public hearing. The Department considered Mr. McGregor's comments and determined that no changes were necessary.